

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION

Chris Robinson,

Plaintiff,

v.

Stephen Fuller, Chuck Lister,
Steve Adwell, Steve Greene,
Peter Schafer, and Pete Meffert,

Defendants.

C.A. No. 5:12-2623-TMC

ORDER

Plaintiff, a state prisoner proceeding pro se and *in forma pauperis*, filed this action pursuant to 42 U.S.C. § 1983. This matter is before the court for review of the Report and Recommendation of the United States Magistrate Judge Kaymani D. West made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 (D.S.C.).

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court.

See *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

In her Report and Recommendation, the magistrate judge recommended this action be dismissed for lack of prosecution and advised Plaintiff of his right to file objections. (ECF No. 50-1). However, Plaintiff filed no objections and the time for doing so has now run. In fact, the Report and Recommendation which was mailed to Plaintiff's last known address was returned to the court marked undeliverable. Plaintiff was advised by Order filed November 7, 2012, of his responsibility to notify the court in writing if his address changed,

and that his case could be dismissed for failing to comply with the court's Order. (ECF No. 17). Based on the foregoing, it appears Plaintiff no longer wishes to pursue this action.

In the absence of objections to the Magistrate Judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. See *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation (ECF No. 50) and incorporates it herein. Accordingly, Defendants' Motion to Dismiss (ECF No. 44) is **GRANTED**, and this action is **DISMISSED** with prejudice for failure to prosecute. Further, Defendant's Motion for Summary Judgment (ECF No. 40) is **DENIED** as moot.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

Anderson, South Carolina
April 23, 2013

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.